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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,544	12/22/2000	Edward J. Panelli	GEMS:0117/YOD 15-EC-5768	2097
7590 12/16/2003 Patrick S. Yoder Suite 330 7915 FM 1960 West Houston, TX 77070			EXAMINER SCHIFFMAN, JORI	
			ART UNIT 3679	PAPER NUMBER

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/747,544

Applicant(s)

PANELLI, EDWARD J.

Examiner

Jori R. Schiffman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (US 6070149) in view of Henley (US Pub. No. US 2002/0065758A1) and Doi et al. (US 5224177).

Regarding claims 1, 4, 9, 13, and 15, Taylor discloses a computer system coupled to a network to enable a supplier to provide a customer with a recommended service or product comprising an application server and product selector file written in a markup language and stored in the computer system that directs a query page (Fig. 3) comprising a plurality of questions designed to enable the computer system to determine a recommended service or product based on the customer's responses, a comparison program to receive a completed query page and compare customer's responses (Fig. 5), a product configuration file written in a markup language which contains information about the specific product, and a server to provide a results page to the customer via the network (Fig. 6), the results page providing the customer with a recommended service or product. Taylor fails to disclose the type of product being a CR system. Henley teaches the product being a medical service or product, while Doi teaches a CR system can be purchased (col. 8, l. 62). It would have been obvious at the time the invention was made

to a person of ordinary skill in the art to use a CR system as the type of product being supplied in Taylor as disclosed in Henley and Doi since it is a widely used medical product, and there are many different models which a user may need help with when purchasing. It would also have been obvious at the time the invention was made to a person of ordinary skill in the art to include the question of whether a single plate or multiple plate CR system is to be recommended in the program since those are two well-known types of CR systems.

As to claims 2, 3, 6, 14, and 21-24, Taylor discloses the use of Java applets and Java script (col. 2, l. 33-34 and 40-41, and col. 34, l. 35-38), and therefore it would have been obvious at the time the invention was made to a person of ordinary skill in the art to write the application server, comparison program, query page, and results page in Java applets and Java script.

Referring to claims 5, 12, 16, and 17, Taylor discloses the use of XML (col. 2, l. 23-24), and therefore it would have been obvious at the time the invention was made to a person of ordinary skill in the art to write the product selector file and product configuration file in XML.

In regards to claims 7, 8, and 19, Taylor fails to disclose the query page and each question having an associated link to a help page. Help pages are well known in the art to guide users through websites when they are not sure of the next step to take, as shown in Henley (Fig. 12). It would have been obvious at the time the invention was made to a person of ordinary skill in the art to include links to help pages for the query page as well as each question to assist the user if they are unsure of what to do next on the website.

As to claims 10, 11, and 25, Taylor discloses the specific configurations of a product being determined by the sales history and comprising a software package (col. 33, l. 38-44).

Referring to claim 18, Taylor discloses each question being a multiple-choice question (Fig. 3).

Regarding claim 20, Taylor discloses the use of HTML (col. 2, l. 20-22), and therefore it would have been obvious at the time the invention was made to a person of ordinary skill in the art to write the help file in HTML.

In regards to claims 26 and 31, Taylor discloses a method of utilizing a computer system coupled to a network to assist a customer in purchasing a service or product comprising connecting a customer communication system to a computer system supplier, routing a request for assistance from the customer to a product selector file written in XML, wherein the product selector file fills a template with questions stored in the product selector file, delivering the template to a customer, completing the template with the customer communication system and transmitting it to the computer system, receiving a completed template from the customer, and determining a recommended service or product and configuring by comparison data derived from the completed template to supplier data stored in the computer system in a product configuration file written in XML, wherein the product configuration file fills a results page with the recommended service or product for delivery to the customer communication system. Taylor fails to disclose the type of product being a CR system. Henley teaches the product being a medical service or product, while Doi teaches a CR system can be purchased (col. 8, l.

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62). It would have been obvious at the time the invention was made to a person of ordinary skill in the art to use a CR system as the type of product being supplied in Taylor as disclosed in Henley and Doi since it is a widely used medical product, and there are many different models which a user may need help with when purchasing.

As to claims 27 and 28, Taylor discloses the routing comprising activating a link in a page to an application server which routes the request to the product selector file.

Regarding claims 29 and 30, Taylor discloses the use of Java script (col. 34, l. 35-38), and therefore it would have been obvious at the time the invention was made to a person of ordinary skill in the art to write the template and results page in Java script.

Referring to claim 32, Taylor discloses the customer communication system having an interface coupled to the Internet.

As to claim 33, Taylor discloses the supplier data for a plurality of different configurations of components and software for a service or product.

In regards to claim 34, Taylor discloses a program to compare customer data to the plurality of configurations of components and software (col. 33, l. 38-44).

Regarding claim 35, the product configuration file provides the results page with the data for specific services or products when the program identifies a specific configuration that matches customer data.

Response to Arguments

3. Applicant argues that the Examiner uses Official Notice to assert that “the question of whether a single plate or multiple plate CR system is to be recommended in the program”. The Examiner disagrees, as Official Notice was taken as to the fact that single plate and multiple

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plate CR systems “are two well-known types of CR systems” (page 3, lines 8-10). Furthermore, according to the disclosure and claims, applicant is not claiming that he invented the single and multiple plate CR systems. Applicant simply claims the computer system and method used to recommend different types of pre-existing CR systems. Therefore, the Examiner maintains that the rejection is appropriate.

4. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Henley reference is not being used to teach the specifics of the online bidding system for acquiring medical services and products, but rather to teach that medical services and products can be acquired online, since Taylor does not mention the type of product that is used. The fact that the systems differ is irrelevant because no specific method used in the service in Henley is combined with the Taylor reference. Therefore the rejection is deemed proper and is maintained.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jori R. Schiffman whose telephone number is 703-305-4805. The examiner can normally be reached on M-Th, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 703-308-1159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Jori R. Schiffman
Examiner
Art Unit 3679

JS


Lynne H. Browne
Supervisory Patent Examiner
Technology Center 3679